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(CD)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/041,491 03/12/98 SCHWABE

C 07842.047.99

EXAMINER

HM12/0329

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GUPTA, A	
ART UNIT	PAPER NUMBER

1653
DATE MAILED:

03/29/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



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22

Below is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

DATE MAILED:

ADVISORY ACTION

■ THE PERIOD FOR RESPONSE

- a) ■ is extended to run 3 months or continues to run ____ from the date of the final rejection.
- b) □ expires three months from the date of the final rejection or as to the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response as set forth in b) above.

- Appellant's Brief is due in accordance with 37 CFR 1.192(a).
- Applicant's response to the final rejection, filed 3-2-00, has been considered with the following effect, but is not deemed to place the case in condition for allowance.
1. ■ The proposed amendments to the claim/and or specification will not be entered and the final rejection stands because:
- a. ■ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b. ■ They raise new issues that would require further consideration and/or search. (See note).
- c. □ They raise the issue of new matter (See note).
- d. □ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. □ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The claims have been specifically amended to recite a method of use. This would require a new search and new consideration. Specifically, a double patenting rejection would have to be considered over the Parent application, now US Patent number, 5,811,395.

2. □ Newly proposed or amended claims ____ would be allowed if submitted in a separately filed amendment canceling the non-allowable claims.
3. ■ Upon the filing of an appeal, the proposed amendment □ will be entered ■ will not be entered and the status of the claims will be as follows:

Claims allowed: None
Claims objected to: ____
Claims rejected: 21-28

However;

Christopher S. F. Low
CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

☐ Applicant's response has overcome the following rejection(s):

4. ■ The affidavit, exhibit or request for reconsideration has been considered, but does not overcome the rejection because Applicants arguments are all predicated on the entry of the After final Amendment. However, since the amendment has not been entered, the prior art rejection, 112 second paragraph, and 112 first paragraph rejections have not been overcome.
5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.
- ☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.
- ☐ Other



Anish Gupta